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7 **UNITED STATES DISTRICT COURT**  
8 **CENTRAL DISTRICT OF CALIFORNIA**  
9

10 RUBEN PAUL GONZALES, an  
11 individual,

12 Plaintiff,

13 vs.

14 BREA'S SMOG TEST ONLY &  
15 AUTO REGISTRATION, a Business  
16 Entity and HASHEM HEYDARI, an  
17 individual,

18 Defendants.

Case No.:

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR  
VIOLATIONS OF AMERICANS  
WITH DISABILITIES ACT;  
CALIFORNIA UNRUH CIVIL  
RIGHTS ACT; GENERAL  
NEGLIGENCE**

19 Plaintiff RUBEN PAUL GONZALES ("Plaintiff") complains of defendants  
20 BREA'S SMOG TEST ONLY & AUTO REGISTRATION, a Business Entity and  
21 HASHEM HEYDARI, an individual, (all defendants collectively referenced  
22 herein as "Defendants") as follows:  
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**PARTIES**

1  
2 1. Plaintiff is a California resident with physical disabilities. He suffers  
3 from paralysis to the left side of his body as a result of a fall from a second-floor  
4 of a two-story building in 1996. Plaintiff had landed on his head and suffered  
5 swelling on his brain. He underwent surgery and was hospitalized for six months.  
6 A year later he was struck by a hit and run driver on the left side of his body while  
7 crossing a street. This accident resulted in injuries to his left knee that required  
8 metal pins to be permanently inserted. He has difficulty walking and utilizes a  
9 wheelchair for mobility.  
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12 2. Defendant BREASMOGTESTONLY & AUTOREGISTRATION is a smog shop located at 815 S. Brea Blvd., Brea, CA 92821.  
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15 3. Plaintiff is informed and believes and on that basis alleges that  
16 defendant HASHEM HEYDARI is the owner of the premises, building, and/or the  
17 land located at 815 S. Brea Blvd., Brea, CA 92821.  
18

19 4. Plaintiff does not know the true names of all possible defendants,  
20 their business capacities, their ownership connection to the property and the  
21 business, or their relative responsibilities in causing the access violations herein  
22 complained of, and plaintiff alleges a joint venture and common enterprise by all  
23 defendants. Plaintiff is informed and believes that each of the defendants is  
24 responsible in some capacity for the events and damages alleged or is a necessary  
25 party for obtaining appropriate relief. Plaintiff shall seek leave to amend the  
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1 complaint to name and add other defendants when their identities are ascertained.

2 **JURISDICTION & VENUE**

3 5. This court has subject matter jurisdiction over this action pursuant to  
4 28 U.S. Code § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
5 with Disabilities Act of 1990, 42 U.S. Code § 12101, et seq.  
6

7 6. Pursuant to pendant jurisdiction, an attendant and related cause of  
8 action arising from the same nucleus of transactions is brought under California's  
9 Unruh Civil Rights Act (Civil Code §§51-52) which expressly incorporates the  
10 Americans with Disabilities Act.  
11

12 7. Venue is proper in this court pursuant to 28 U.S. Code § 1391(b) and  
13 is founded on the fact that the real property which is the subject of this action is  
14 located in this district and Plaintiff's causes of action arose in the district.  
15

16 **FACTUAL ALLEGATIONS**

17 8. Plaintiff went to BREA'S SMOG TEST ONLY & AUTO  
18 REGISTRATION in or about May 2024. When entering the parking lot, Plaintiff  
19 noticed that there was no handicap parking space, handicap parking sign, or van  
20 access. Therefore, the condition of the parking lot denied the Plaintiff as a  
21 disabled person full and equal access and caused him difficulty and frustration.  
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23 9. Failing to provide full and properly maintained access to the  
24 handicap parking area amounts to a violation of the operative American with  
25 Disabilities Act Guidelines (ADAAG). Additionally, the lack of signage shows  
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1 neglect and that Defendants are not implementing any policy of upkeep so as to  
2 give disabled persons practical access to the given premises and services equal to  
3 the access enjoyed by non-disabled persons, and this amounts to illegal  
4 discrimination against disabled persons who wish to patronize BREA'S SMOG  
5 TEST ONLY & AUTO REGISTRATION as a place of public accommodation.  
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7       10. Plaintiff personally encountered violations of applicable legal  
8 obligations and standards that prevented him from full and equal access to  
9 convenient, safe, adequate, and appropriate parking. Plaintiff would like to  
10 patronize this establishment again but cannot do so until the Defendants remove  
11 these barriers or obstacles to proper access equal for everyone and correct all  
12 violations of law. Plaintiff seeks to have all barriers and obstacles related to  
13 disabled persons remedied, whichever may exist, regardless of whether he  
14 personally encountered any of them. See *Doran v. 7-11*; 524 F3d 1034 (9<sup>th</sup> Cir  
15 2008), holding that once a handicapped plaintiff encounters one barrier to equal  
16 access at a given site, he can sue to have all other barriers relating to his disability  
17 removed even if he did not personally encounter those barriers on the given  
18 occasion. Additionally, Plaintiff believes and alleges that Defendants' failure to  
19 remedy and remove the specific barriers (difficulties) to access for disabled  
20 persons, as mentioned in the Paragraphs above, is intentional because (a) these  
21 particular barriers are obvious, and (b) Defendants, jointly and severally,  
22 exercised full control and dominion over the conditions on the land and at the  
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1 business at this particular location, and therefore the lack of and barriers to full  
 2 equal access for disabled persons was not mere “accidental oversight”, given that  
 3 had Defendants intended any other situation they had the means and ability to  
 4 make the land and business fully compliant with the legal requirements mandated  
 5 by the laws, as set forth in the causes of action below.  
 6

7 **FIRST CAUSE OF ACTION**  
 8 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**  
 9 **(Against All Defendants (42 U.S. Code § 12101, et seq.))**

10 11. Plaintiff realleges and incorporates by reference the allegations  
 11 contained in all prior paragraphs of this complaint.

12 12. Defendants own, operate, lease from, or lease to a place of public  
 13 accommodation commonly known as BREA’S SMOG TEST ONLY & AUTO  
 14 REGISTRATION. Under the ADA, it is an act of discrimination for any person(s)  
 15 who owns, leases (or leases to), or operates a place of public accommodation to  
 16 deny to disabled persons the full and equal enjoyment of the goods, services,  
 17 facilities, privileges, advantages, or accommodations of any place of public  
 18 accommodation. 42 U.S. Code § 12182(a). U.S. Code § 12182(b) defines  
 19 discrimination, inter alia, as follows:  
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22 a. A failure to make reasonable modifications in policies,  
 23 practices, or procedures, when such modifications are necessary to  
 24 afford such goods, services, facilities, privileges, advantages, or  
 25 accommodations to individuals with disabilities, unless the entity can  
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1 demonstrate that making such modifications would fundamentally  
2 alter the nature of such goods, services, facilities, privileges,  
3 advantages, or accommodations. 42 U.S. Code § 12182(b)(2)(A)(ii).  
4

5 b. A failure to remove architectural barriers, and  
6 communication barriers that are structural in nature, in existing  
7 facilities, ...where such removal is readily achievable. See 42 U.S.  
8 Code § 12182(b)(2)(A)(iv). Barriers can be defined by reference to  
9 the ADAAG, found at 28 Code Federal Regulations, Part 36,  
10 Appendix D.  
11

12 c. A failure to design and construct facilities for first  
13 occupancy, if later than 30 months after July 26, 1990, that are readily  
14 accessible to and usable by individuals with disabilities, except where  
15 an entity can demonstrate that it is structurally impracticable to meet  
16 the requirements of such subsection in accordance with standards set  
17 forth or incorporated by reference in regulations issued under this  
18 subchapter. 42 U.S. Code § 12183(a)(1).  
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22 13. Defendants are persons or business entities that own, operate, or lease a  
23 place of public accommodation. As such, Defendants are required to avoid  
24 discrimination and have specific duties to (1) ensure that all construction,  
25 alteration, or modification is barrier-free as to disabled persons and complies with  
26 the currently operative ADAAG; and/or (2) remove all existing barriers to  
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1 disabled persons where such removal is readily achievable, and/or (3) to provide  
2 alternatives to barrier removal for the benefit of the disabled persons so that they  
3 do enjoy equal access at places of public accommodation. Defendants have failed  
4 to meet these obligations. Consequently, Plaintiff is entitled to court-ordered relief  
5 against the defendants, to make sure that within six months from the beginning of  
6 this action the defendants render their public accommodation premises fully  
7 compliant with the ADA.  
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10 **SECOND CAUSE OF ACTION**  
11 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**  
12 **(Against All Defendants (Cal Civil Code § 51-53))**

13 14. Plaintiff realleges and incorporates by reference the allegations contained in  
14 all prior paragraphs of this complaint.

15 15. Because Defendants violated Plaintiff's rights under the ADA, they also  
16 violated the Unruh Civil Rights Act and are liable for damages. Civil Code §  
17 51(f), 52(a).  
18

19 16. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
20 discomfort, and embarrassment for the plaintiff, the defendants are also  
21 responsible for statutory damages, i.e., civil penalties. See Civil Code § 51(f),  
22 52(a).  
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**THIRD CAUSE OF ACTION  
GENERAL NEGLIGENCE  
(Against All Defendants)**

17. Plaintiff realleges and incorporates by reference the allegations contained in all prior paragraphs of this complaint.

18. Defendants owe a duty of care to Plaintiff, arising under the ADA and Unruh Civil Rights Act, to provide safe, convenient, and accessible facilities. Their violations of this duty, as alleged in the preceding paragraphs of this complaint, has caused inconvenience, injury, and damage to Plaintiff in the amount of at least minimal amounts of damages allowed by applicable statutes, the exact amount to be determined at the trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that this court award damages and provide relief against all named Defendants, jointly and severally, as follows:

1. For mandatory injunctive relief, compelling Defendants jointly and severally to comply with the Americans with Disability Act and the California Unruh Civil Rights Act by fully correcting all violations of the requirements of these laws within six months of being served with Summons and Complaint in this action, and that said Defendants be required to report to Plaintiff and to the Court of the actual status of the correction of the defects charged in this Complaint on the next day after the six month period has expired.

2. For damages under the Americans with Disability Act and/or the Unruh



1 Civil Rights Act where applicable, which statutes provide for actual damages and  
2 a statutory minimum of \$4,000 per violation. If the Plaintiff cannot recover under  
3 both Unruh and ADA, simultaneously, an election will be made prior to or at trial,  
4 at an appropriate stage in these legal proceedings.  
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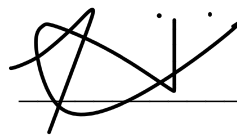
6 3. For damages for general negligence, in the amount of at least minimal  
7 amounts of damages allowed by applicable statutes, or alternatively \$4,000, the  
8 exact amount to be determined at trial.  
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10 4. For reasonable litigation expenses and costs of suit pursuant to 42 U.S.  
11 Code § 12205, Cal Civil Code § 52, and Cal Code of Civil Procedure § 1021.5.  
12 For reasonable attorneys' fees pursuant to 42 U.S. Code § 12205, Cal Civil Code  
13 § 52, and Cal Code of Civil Procedure § 1021.5, in the amount of \$4,000.  
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15 5. For such other and further relief as the court deems just and proper.  
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18 DATE: September 24, 2024

**THE DISABILITY ACCESS CENTER**

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21  
22 Faud Haghighi, Esq.  
23 Attorney for Plaintiff,  
24 RUBEN PAUL GONZALES  
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